

FILED  
LORAIN COUNTY  
2023 FEB 24 P 2:49  
COUNT OF COMMON PLEAS  
TOM ORLANDO

IN THE COURT OF COMMON PLEAS  
LORAIN COUNTY, OHIO

STATE OF OHIO, ex rel.  
DAVE YOST  
OHIO ATTORNEY GENERAL,

Plaintiff,

v.

LAWRENCE DOVE  
dba DOVE MANUFACTURING, INC., et al.,

Defendants.

CASE NO. 20 CV 201576

HON. RAYMOND J. EWERS

CONSENT ORDER FOR PERMANENT INJUNCTION AND CIVIL PENALTIES  
BETWEEN PLAINTIFF, STATE OF OHIO, AND DEFENDANT LAWRENCE DOVE  
dba DOVE MANUFACTURING, INC. AND DOVE TOOL, INC.

The State of Ohio, by its Attorney General ("Plaintiff"/"the State") and at the written request of the Director of the Ohio Environmental Protection Agency ("the Director"), has filed a Complaint seeking injunctive relief and civil penalties against Defendants Lawrence Dove dba Dove Manufacturing, Inc. and Dove Tool, Inc. (collectively "Dove"), as well as other defendants not party to this Consent Order. The Complaint seeks injunctive relief and civil penalties against Dove for violations of Ohio's hazardous waste laws under R.C. Chapter 3734 and the rules adopted under that Chapter, arising from Dove's operation and ownership of an unpermitted hazardous waste storage and disposal facility at a 3.6-acre parcel of property at 27100 Royalton Road,

Columbia Station, Ohio 44028, and for Dove's violation of consensual Director's Final Findings and Orders related to that site. The Complaint also seeks injunctive relief and civil penalties against Dove for violations under Ohio Adm.Code 3745-279-22 arising from mismanagement of used oil at 12900 South Reed Road, Grafton, Ohio 44044. Dove and the State of Ohio have consented to the entry of this Order.

During resolution of the State's claims with Defendant related to the South Reed Road site, Defendant conducted remedial work at the South Reed Road site to remove used oil and address any soil contamination. Based upon this work conducted by the Defendants, including sampling and soil removal and soil characterization, the Parties have agreed no further work at the Site is necessary to address the used oil releases. All violations related to the Royalton Road site have been resolved by co-defendants in this matter.

Therefore, without trial, admission, or determination of any issue of fact or law and with the consent of the Parties hereto, it is ORDERED, ADJUDGED, AND DECREED:

## **I. DEFINITIONS**

1. As used in this Order, the following terms are defined:
  - a. "Dove" means Defendants Lawrence Dove dba Dove Manufacturing, Inc. and Dove Tool, Inc..
  - b. "Director" means the Director of the Ohio Environmental Protection Agency ("Ohio EPA") or the Director's designee.
  - c. "Effective Date" means the date the Court signs this Order.
  - d. "Parties" means Plaintiff, the State of Ohio, and Defendant Lawrence Dove.
  - e. "Person" means an individual, public or private corporation, business trust, estate, trust, partnership, association, federal government or any agency thereof, municipal

corporation or any agency thereof, political subdivision or any agency thereof, public agency, interstate body created by compact, any other entity, and other officers, agents, employees, attorneys, and/or those in active concert or participation with any of them.

f. "RCRA metals" means arsenic, barium, cadmium, chromium, lead, mercury, selenium, and silver.

g. "Site" means the property at 12900 South Reed Road, Grafton, Ohio 44044.

h. "State" means Plaintiff State of Ohio, by and through its Attorney General, Dave Yost at the written request of the Director of Environmental Protection.

i. "TCLP" means Toxicity Characteristic Leaching Procedure.

j. "VOCs" means those compounds listed in U.S. EPA's publication SW 846, Test Methods for Evaluated Solid Waste, Method 8260, Target Compound List.

k. "Order" refers to this Order.

l. "Written" means a paper copy or a saved, stored, or transmitted electronic copy.

## **II. JURISDICTION AND VENUE**

2. The Court has jurisdiction over the Parties and the subject matter of this action under R.C. Chapter 3734. The Complaint states a claim upon which relief can be granted. Venue is proper in this Court. Dove shall not challenge the Court's jurisdiction to enter or enforce this Order.

## **III. PARTIES BOUND**

3. Lawrence Dove is an Ohio resident whose mailing address is 15055 State Route 301, LaGrange, Ohio 44050.

4. Dove Tool, Inc. is a corporation organized under the laws of the State of Ohio with a mailing address of 5902 South Park Drive, Lorain, Ohio 44053.

5. This Order shall apply to and be binding only upon Dove, and, to the extent consistent with Civ. R. 65(D), on Dove's agents, officers, employees, contractors, assigns, successors in interest, and those persons acting in concert, privity, or participation with Dove who receive actual notice of this Order whether by personal service, by public record filed in the county land record, or otherwise. Dove shall provide a copy of this Order to any successor in interest and to each key employee, consultant, or contractor employed to perform work referenced herein or to operate the Site.

6. This Order is in settlement and compromise of disputed claims, and nothing in this Order is to be construed as an admission of any facts or liability.

7. If insolvency, bankruptcy, or other failure occurs, Dove must pay the remaining unpaid balance of the total civil penalty.

#### **IV. SATISFACTION OF LAWSUIT AND RESERVATION OF RIGHTS**

8. The Plaintiff alleges that Dove is responsible for violations of the hazardous waste pollution control laws of the State of Ohio under R.C. Chapter 3734 and for used oil violations under Ohio Adm.Code 3745-279-22. Dove denies all such allegations. Compliance with this Order shall constitute full satisfaction of any civil liability of Dove to Plaintiff for the claims alleged in Plaintiff's Complaint.

9. Nothing in this Order, including the imposition of stipulated civil penalties for violations of this Order, shall limit the authority of the State of Ohio to:

- a. Seek any legal or equitable relief or civil penalties from Dove or any other appropriate person for any claims or violations not alleged in the Complaint;

- b. Seek any legal or equitable relief or civil penalties from Dove or any other appropriate person for claims, conditions, or violations that occur on or exist after the entry of this Order;
- c. Enforce this Order through a contempt action or otherwise seek relief for violations of this Order; and/or
- d. Take any future legal or equitable against any appropriate person, including Dove, to eliminate or mitigate conditions at the Site that may present a threat to public health or welfare or to the environment in derogation of applicable laws and rules, which State of Ohio has the authority to enforce.
- e. Bring any action against Dove or against any other person, under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), as amended, 42 U.S.C. §9601, et seq. and/or Revised Code 3734.20 through 3734.27 to: (1) recover natural resource damages, and/or (2) order the performance of, and/or recover costs for any removal, remedial or corrective activities not conducted pursuant to the terms of this Order.

10. This Order does not waive, abridge, settle, compromise, or otherwise impact any other claims in law or equity that the State of Ohio or other persons may have against Dove.

11. Except for the signatories to the Order, nothing in this Order shall constitute or be construed as satisfaction of civil liability, a covenant not to sue, and/or a release regarding the claims alleged against any person not a signatory to this Order for any liability such non-signatory may have arising out of matters alleged in the Complaint. The State of Ohio also specifically reserves its right to sue any entity that is not a signatory to this Order.

12. Nothing in this Order shall relieve Dove of Dove's obligations to comply with applicable federal, state, or local statutes, regulations, rules, or ordinances.

13. Nothing herein shall restrict Dove's right to raise any administrative, legal, or equitable defense with respect to such further actions reserved by the State in this Section. However, with respect to the actions reserved by the State in this Section, Dove shall not assert and/or maintain, any defense or claim of waiver, res judicata, collateral estoppel, issue preclusion, claim splitting, or other defenses based on any contention that Plaintiff's claims in any subsequent judicial or administrative proceeding could or should have been brought in this case.

#### **V. INJUNCTIVE RELIEF**

14. Dove is ordered and permanently enjoined to comply fully with R.C. Chapter 3734 and the rules thereunder, including, but not limited to, the provisions of Ohio Adm.Code 3745-279-22.

15. Dove is ordered and enjoined to conduct the following by the Effective Date:

- a. Remove any used oil/water mixture from the machinery present at the Site and place it into suitable containers. The containers must be in good condition and labeled as "Used Oil."
- b. Arrange for the containerized used oil/water mixture to be removed by a registered used oil transporter.
- c. Once the used oil/water has been removed from the machinery, remove that machinery from the Site.
- d. Clean up and containerize any used oil impacted soil, and characterize the impacted soil by arranging for a commercial laboratory to test two samples of the soil (one from the farm wagon and one from any additional soil that is cleaned up) for TCLP testing (RCRA metals and VOCs).

- i. If the soil is characterized as hazardous waste, it must be lawfully transported to an authorized hazardous waste management facility.
  - ii. If the soil is not characterized as hazardous waste, it must be taken to a solid waste landfill.
- e. Provide Ohio EPA with all shipping papers and manifests for the transport of the used oil/water and the used oil impacted soil.

16. The Parties agree that the work required by Paragraph 15 has been completed.

#### **VI. CIVIL PENALTY**

17. Under R.C. 3734.13, Dove is ordered to pay a civil penalty of \$2,000.00, subject to the provisions in the Section. Full payment shall be made within thirty (30) days of entering this Order. Such payment shall be made by delivering to Sandra Finan, Paralegal, or her successor at the Office of the Ohio Attorney General, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43215, a certified check or checks for the appropriate amount, payable to the order of "Treasurer, State of Ohio" or by wire as directed by the State for deposit into the account established by R.C. 3734.281, environmental protection remediation fund. Failure to comply with this paragraph is subject to the stipulated penalties provisions of Section VII.

18. If full payment of the civil penalty and any other amount due under this Consent Order is not received by the State in accordance with the terms of this Consent Order, the remaining unpaid balance of the total civil penalty and any other amount due, plus applicable interest under R.C. 131.02(D), shall become immediately due and owing. The remaining unpaid balance and any delinquent payments shall accrue interest at the rate per annum required by R.C. 5703.47 calculated from the Effective Date of this Order.

19. If any amount is not paid in accordance with the terms of this Consent Order, the Attorney General may collect that amount under R.C. 131.02. Pursuant to R.C. 109.081, in addition to the outstanding balance due under this Consent Order, collection costs of ten percent shall be owing and fully recoverable from Dove to be paid into the State Treasury to the credit of the Attorney General Claims Fund.

20. The State reserves the right to file a certificate of judgment lien against Dove for the remaining unpaid balance of the total civil penalty, plus applicable statutory interest and collection costs, if the full civil penalty payment is not paid according to the schedule in this Order. Dove shall not be permitted to claim a force majeure as an excuse for any untimely payment or partial payment of an amount less than the full civil penalty as specified in this Order.

#### **VII. STIPULATED PENALTIES**

21. If Dove fails to comply with any of the requirements of this Order, Dove shall immediately and automatically be liable for and shall pay stipulated penalties under the following schedule for each failure to comply:

- i. Dove shall pay one-hundred and fifty dollars (\$150.00) per day for each day any requirement of this Order is violated up to the first thirty (30) days of violation;
- ii. For each day any requirement of this Order is violated between thirty (30) days and ninety (90) days of violation, Defendants shall pay three hundred dollars (\$300.00) per day;
- iii. For each day any requirement of this Order is violated greater than ninety (90) days of violation, Defendants shall pay five hundred dollars (\$500.00) per day.

22. Stipulated penalties due under this Order shall be immediately due and owing without demand by the State and shall be paid by check or money order, payable to "Treasurer, State of Ohio" and delivered to Sandra Finan, Paralegal, or her successor at the Office of the Ohio Attorney



General, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43215.

23. Dove's payment and Plaintiff's acceptance of such stipulated penalties under this Section shall not be construed to limit Plaintiff's authority, without exception, to seek: 1) additional relief under R.C. Chapter 3734 including civil penalties under R.C. 3734.13; 2) judicial enforcement of this Order for the same violations for which a stipulated penalty was paid; or 3) sanctions for additional remedies, civil, criminal, or administrative, for violations of applicable laws. Further, payment of stipulated penalties by Dove shall not be an admission of liability by Dove.

#### **VIII. COMPLIANCE NOT DEPENDENT ON GRANTS OR LOANS**

24. Performance of the terms of this Order by Dove is not conditioned on the receipt of any private, Federal or State grants, loans, and/or funds. In addition, Dove's performance is not excused by failing to obtain or by any shortfall of any private, Federal or State grants, loans and/or funds or by the processing of any applications for the same.

#### **IX. SITE ACCESS**

25. As of the Effective Date, Ohio EPA and its representatives and contractors shall have access at reasonable times to the Site, and shall have access to any other property controlled by or available to Defendants to which access is necessary to effectuate the actions required by this Order. Access shall be allowed for the purposes of conducting activities related to this Order including but not limited to:

- a. Monitoring the work or any other activities taking place at the Site;
- b. Verifying any data or information submitted to Ohio EPA;
- c. Conducting investigations relating to contamination at or near the Site;
- d. Obtaining samples;

- e. Assessing the need for, planning, or implementing additional response actions at or near the Site;
- f. Inspecting and copying records, operating logs, contracts or other documents maintained or generated by Defendants or their agents, consistent with this Order and applicable law; or
- g. Assessing Defendants' compliance with this Order.

26. To the extent necessary (or possible), Defendants shall use their best efforts to secure access to the Site for Defendants and Ohio EPA from such persons as necessary to effectuate this Consent Order. Copies of any access agreements obtained by Defendants, if necessary, shall be provided promptly to Ohio EPA. If any access required to effectuate this Consent Order is not obtained within thirty (30) days of the Effective Date of this Consent Order, or within thirty (30) days of the date Ohio EPA notifies Defendants in writing that additional access beyond that previously secured is necessary, Defendants shall promptly notify Ohio EPA in writing of the steps Defendants have taken to attempt to obtain access. Ohio EPA may, as it deems appropriate, assist Defendants in obtaining access.

27. Nothing in this Order shall be construed to limit the statutory authority of the Director or his authorized representatives to enter at reasonable times upon the Site or any other private or public property, real or personal, to inspect or investigate, obtain samples and examine or copy any records to determine compliance with R.C. Chapters 3734.

#### **X. SUBMITTAL OF DOCUMENTS**

28. All documents required to be submitted to Ohio EPA pursuant to this Order shall be submitted through Counsel for Plaintiff, the State of Ohio.

#### **XI. EFFECT OF ORDER**

27. This Order does not constitute authorization or approval of the construction, installation, modification, or operation of any hazardous waste facility, or any building, structure, facility, facility component, operation, installation, disposal or storage site, other physical facility, or real or personal property that stores, discharges, or otherwise manages hazardous waste not previously approved by Ohio EPA. Approval for any such construction, installation, modification, or operation shall be by permit issued by Ohio EPA or other such permits as may be required by applicable federal, state, or local laws, rules or regulations.

## **XII. MODIFICATION**

29. No modification shall be made to this Order without the written agreement of the Parties and the Court.

## **XIII. MISCELLANEOUS**

30. Nothing in this Order shall affect Dove's obligation to comply with all applicable federal, state or local laws, regulations, rules, ordinances, or orders.

31. Any acceptance by the State of Ohio of any payment, document, or other work due subsequent to the time that the obligation is due under this Order shall not relieve Dove from the obligations created by this Order.

32. Dove shall inform the Ohio EPA of any change of his personal address.

## **XIV. RETENTION OF JURISDICTION**

33. This Court shall retain jurisdiction for the purpose of administering and enforcing this Order.

## **XV. ENTRY OF ORDER AND FINAL JUDGMENT BY CLERK**

34. Under Rule 58 of the Ohio Rules of Civil Procedure, upon signing this Order by the Court, the Clerk is directed to enter it upon the journal. Within three (3) days of entering the judgment

upon the journal, the Clerk is directed to serve upon all Parties notice of the judgment and its date of entry upon the journal in the manner prescribed by Civ.R. 5(B) and note the service in the appearance docket. The failure of the Clerk to serve notice does not affect the validity of this Order.

**XVI. COURT COSTS**

35. Dove is ordered to pay all court costs not paid by the other Defendants in this matter.

**XVII. AUTHORITY TO ENTER INTO THE ORDER**

36. Each signatory represents and warrants he has been duly authorized to sign this document and is fully authorized to agree to its terms and conditions, and, in the case of a person signing on behalf of a corporate entity, may so legally bind the corporate entity to all terms and conditions in this document. By signing this Order, each signatory waives all rights of service of process for the underlying Complaint.

IT IS SO ORDERED.

*case closed.*

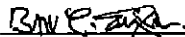


JUDGE

2-23-23

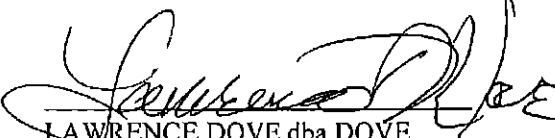
DATE

APPROVED AND AGREED TO BY:

DAVE YOST  
OHIO ATTORNEY GENERAL


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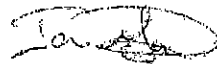
*Attorney for Defendant, Lawrence Dove, dba  
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LAWRENCE DOVE dba DOVE  
MANUFACTURING



DOVE TOOL, INC.



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